



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 15, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0127

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.180-POL-3(1). Officers Will Not Conduct Warrantless Searches or Seizures Unless there is Both Subjective and Objectively Reasonable Basis to Believe that Exigent Circumstances Exist	Not Sustained - Lawful and Proper (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

Named Employee #1 (NE#1) responded to reports of Community Member #1 (CM#1)—a toddler—hanging out an apartment building window. NE#1 and the Seattle Fire Department (SFD) breached the wrong apartment, the Complainant's unit. The Complainant alleged that NE#1 failed to announce he was a police officer.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On April 25, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant emailed an OPA complaint. OPA opened an intake investigation, reviewing the OPA complaint, computer-aided dispatch (CAD) call report, incident report, body-worn video (BWV), and 9-1-1 recordings. OPA also interviewed the Complainant.

A. OPA Complaint

The Complainant wrote that on March 19, 2023,¹ Community Member #2 (CM#2)—the Complainant's sister—was "threatened" by a neighbor aggressively knocking on the door and someone saying, "This one too," before SPD and

¹ The Complainant mistakenly indicated that the incident occurred on March 19, 2023. It happened on March 18, 2023.



SFD, “broke down our door and entered our home.” The Complainant wrote that her sister hid in the closet while on the phone with 9-1-1. According to CM#2, SPD and SFD did not identify themselves after entering.

B. Computer-Aided Dispatch (CAD) Call Report

On March 18, 2023, at 6:10 PM, CAD call remarks noted, “3-4 [YEAR OLD] HANG OUT OF WINDOW, 3RD FLOOR, [WEST] SIDE.” At 6:13 PM, CAD call remarks were updated: “CHILD COMPLETELY OUT OF WINDOW.” At 6:59 PM, CAD call remarks noted: “I MISTAKENLY ADVISED THE RESIDENTS IN [Unit #1] THAT SPD FORCED THEIR DOOR OPEN AND DAMAGED IT. IT WAS ACTUALLY ALL SFD THAT FORCED THEIR DOOR AND DAMAGED IT.” The call was categorized as “Child – Abandoned, Abused, And Neglected.”

C. Incident Report

NE#1 wrote an incident report documenting, in pertinent part, the following:

NE#1 wrote that on March 18, 2023, at 6:10 PM, he arrived and saw CM#1 hanging from a window roughly forty feet above ground. NE#1 wrote that a fall would have likely caused serious bodily injury or death. NE#1 indicated that he searched the apartment’s fourth floor with SFD. NE#1 wrote that they knocked on [Unit #2], and someone answered and said there was no child. NE#1 wrote that they knocked on [Unit #1] but got no answer, leading SFD to force entry. NE#1 wrote that [Unit #1] was empty. NE#1 wrote that they returned to [Unit #2] and found CM#1 and other occupants there.

D. Body-Worn Video (BWV)

OPA reviewed NE#1’s BWV and found it consistent with his incident report. NE#1’s BWV also captured two community members assisting with NE#1’s fourth-floor search. Community Member #3 (CM#3) knocked on multiple doors. CM#3 knocked on [Unit #1] four times. NE#1 knocked on [Unit #1] three times but did not announce he was an officer. Two SFD employees arrived. CM#3 pointed to [Unit #1] and said, “We think it’s that one. We really do. No one’s answering.” NE#1 replied, “No one’s answering? Just break it.” SFD breached the door. NE#1 and SFD searched [Unit #1] but found no child. NE#1 and the SFD members wore uniforms and identified themselves as SPD and SFD members.

Other BWVs were also consistent with the evidence summarized above. It captured community members at the ground level holding a sheet in case the child fell.

E. 9-1-1 Recordings

OPA reviewed CM#2’s two 9-1-1 calls. In the first call, CM#2 told dispatch, “They’re banging on the door.” CM#2 provided her address, said, “They’re breaking my door,” and asked for immediate assistance. The call disconnected. In the second call, CM#2 told dispatch, “These people broke into my house.” CM#2 said she did not know whether they were still inside because she was hiding in a closet. The call disconnected.

F. OPA Interview

The Complainant responded to OPA’s emailed questions instead of an interview. The Complainant wrote that CM#2 heard yelling outside, someone saying, “Yeah, this one, too,” and banging on her door. The Complainant wrote that



CM#2 saw CM#3 aggressively banging on the door, causing CM#2 to hide in a closet and call 9-1-1. The Complainant wrote that she and her mother were not home. The Complainant wrote, "This [situation] could have been avoided if [SPD and SFD] identified themselves and not sent a civilian to come banging on our door."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.180-POL-3(1). Officers Will Not Conduct Warrantless Searches or Seizures Unless there is Both Subjective and Objectively Reasonable Basis to Believe that Exigent Circumstances Exist

The Complainant alleged that NE#1 unjustifiably searched her home without a warrant.

Officers may not conduct a warrantless search or seizure based on exigency unless a subjective and objectively reasonable basis to believe an exigent circumstance exists. See SPD Policy 6.180-POL-3(1). One consideration is whether the police identified themselves. *Id.* The emergency aid doctrine also permits warrantless entries. The emergency aid doctrine covers police officers engaged in community caretaking, aiding someone in danger of death or physical harm. *State v. Leupp*, 96 Wn. App. 324, 330, 980 P.2d 765, 768–69 (1999). The doctrine involves circumstances of greater urgency and searches resulting in greater intrusion. *State v. Kinzy*, 141 Wn.2d 373, 386–87, 5 P.3d 668, 676 (2000). It applies when: (1) the officer subjectively believed that someone likely needed assistance for health or safety reasons; (2) a reasonable person in the same situation would similarly believe that there was a need for assistance; and (3) there was a reasonable association between the need for assistance and the place searched. *Id.*

Here, CM#1 hanging from a fourth-floor window triggered the emergency aid doctrine. First, NE#1 subjectively believed CM#1 needed assistance since a fall would cause serious bodily injury or death. Second, NE#1's belief was objectively reasonable, demonstrated by community members assisting NE#1 and SFD. One called 9-1-1, another knocked on doors to locate the unit, and several on the ground spread out a sheet to catch CM#1. Third, NE#1 had a reasonable basis to search [Unit #1]. NE#1 did not know which unit CM#1 was in and reacted with the best information he had—guided by building residents. Although NE#1 did not knock and announce his presence at Unit #1, he loudly identified himself as an SPD officer in the hallway moments earlier. Moreover, NE#1 and other uniformed officers were identifiable as law enforcement.

While empathetic to CM#2's experience, the urgent situation required an immediate response. Although NE#1 entered [Unit #1] without a warrant, OPA finds the entry was justified under the emergency aid doctrine.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**